

UNITED STATES OF AMERICA, ex rel.
INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, LOCAL UNION No. 98,

Plaintiff,

v.

THE FARFIELD COMPANY,

Defendant.

Pursuant to the Court's November 5, 2015, Order appointing the undersigned as Special Discovery Master in this matter and the Court's January 4, 2016, Order extending the appointment, the Special Discovery Master submits this Decision and Recommendation regarding the one issue the parties were unable to resolve.

The Court's November 5, 2015, Order referred certain discovery disputes to the Special Discovery Master for possible resolution or submission of a written decision and recommendation regarding any unresolved issues. The discovery disputes included defendant's responses to plaintiff's requests for production of documents and interrogatories, as set forth in plaintiff's October 5, 2015, Motion to Compel, as well as the coordination and number of depositions to be held. As set forth in the Third Progress Report of the Special Discovery Master, the parties have resolved all of the issues raised in plaintiff's Motion to Compel and most of the issues regarding the coordination and

number of depositions. The sole issue the parties were unable to resolve is the amount of time necessary to complete depositions. The Special Discovery Master's decision and recommendation on this issue is set forth below.

DECISION AND RECOMMENDATION

At the request of the Special Discovery Master, the parties conferred in January and February 2016 regarding the timing of depositions and attempted to agree on a deadline for the completion of depositions. Their efforts were unsuccessful and, at the third meeting with the Special Discovery Master on February 26, 2016, this issue could not be resolved.

Prior to the February 26, 2016, meeting, plaintiff proposed a deposition deadline of December 31, 2016, while defendant proposed a deadline of May 31, 2016. At the February 26, 2016, meeting, defendant expressed a willingness to agree to a later deadline than May 31, 2016, but plaintiff did not agree to any deposition cut-off date before December 31, 2016. The Special Discovery Master has considered the arguments of the parties made at the February 26, 2016, meeting, and particularly the concern about the time involved in scheduling and taking as many as forty-six depositions, many of which will take place outside Philadelphia. The Special Discovery Master also is mindful that this matter was first filed more than six years ago and the complaint was unsealed and defendant served more than four years ago. Discovery has been ongoing for more than two and a half years. Lengthy delays in bringing federal-court litigation to a final resolution affect not only the parties and their counsel, but the Court itself. While the Special Discovery Master does not believe either party has intentionally stalled the progress of this case, it cannot go on forever. Given the possibility of expert witness disclosures and motion practice, dispositive motions, and other pre-trial motions, this case is likely to continue well into 2017.

With these considerations as background, the Special Discovery Master recommends that the Court impose a deadline for completion of depositions of August 9, 2016. Assuming that

depositions can begin by March 21, 2016, this deadline gives the parties approximately twenty weeks, or 100 business days, to complete the forty-six depositions.

In accordance with the Court's November 5, 2015, Order appointing the Special Discovery Master, any party objecting to this recommendation must file a motion with the Court within ten days of the filing of this Decision and Recommendation. It goes without saying that, even if a party objects and files a motion, the scheduling and taking of depositions can, and should, commence at the earliest possible time.

Respectfully submitted,

/s/ Bruce P. Merenstein
Bruce P. Merenstein, Special Discovery Master

Dated: February 29, 2016

CERTIFICATE OF SERVICE

I, Bruce P. Merenstein, hereby certify that on February 29, 2016, I caused to be electronically filed the foregoing **First Decision and Recommendation of the Special Discovery Master**. Through the Court's ECF system, this document is available for viewing and downloading.

/s/ Bruce P. Merenstein

Bruce P. Merenstein